

**CITY OF MORGAN HILL
JOINT SPECIAL AND REGULAR CITY COUNCIL AND
SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES – APRIL 2, 2003**

CALL TO ORDER

Mayor/Chairperson Kennedy called the meeting to order at 6:00 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Sellers, Tate and Mayor/Chair Kennedy
Late: Mayor Pro Tempore/Vice-chair Chang (arrived at 6:03 p.m.)

DECLARATION OF POSTING OF AGENDA

City Clerk/Agenda Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

City Attorney/Agency Counsel Leichter announced the following closed session items.

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant Exposure/Initiation of Litigation

Authority: Government Code Sections 54956.9(b) & (c)

Number of Potential Cases: 2

2.

EXISTING LITIGATION

Authority: Government Code section 54956.9(a)

Case Name/Number: Santa Teresa Citizen Action Group et al. v. California Energy Commission (California Third District Court of Appeals, C041090); Santa Teresa Citizen Action Group et al. v. Hearing Board of the Bay Area Air Quality Management District (San Francisco Superior Court, CPF-02-50164); Santa Teresa Citizen Action Group et al. v. Calpine Corporation (Ninth Circuit Court of Appeals, 01-701611).

3.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Legal Authority: Government Code Section 54965.9(a)

Case Name: Santa Clara Valley Audubon Society v. City of Morgan Hill

Case No.: Santa Clara County Superior Court, No. CV 815655

Attendees: City Council, City Manager, City Attorney

4.

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Authority:	Government Code Section 54956.8
Property:	APN 726-15-069, located on the west side of Butterfield Boulevard, 1200 feet south of Main Avenue.
Agency Negotiators:	City Manager
Parties:	Valley Transportation Agency (VTA)
Under Negotiation:	Price, Terms of Payment

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/Chairperson Kennedy opened the closed session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor/Chairperson Kennedy adjourned the meeting to closed session at 6:02 p.m.

RECONVENE

Mayor/Chairperson Kennedy reconvened the meeting at 7:08 p.m.

CLOSED SESSION ANNOUNCEMENT

Mayor/Chairman Kennedy indicated that closed session items were continued to the conclusion of the open session meeting.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Mayor/Chairperson Kennedy, Police Reserve Brian Kwong led the Pledge of Allegiance.

PROCLAMATIONS

Mayor Kennedy presented a Certificate of Recognition to Retired Reserve Officer Sam Leyva for years of service.

RECOGNITIONS

Mayor Kennedy recognized the outstanding contributions of the volunteer Committee Chairpersons who made the Community and Cultural Center Grand Opening Day a wonderful success. Those persons recognized and presented with a Certificate of Recognition were: Daryl Manning, Sheryll Bejarano, Irma Torrez, Jay Jaso, Rosemary Rideout, Lorraine Welk, the Youth Advisory Committee, Alisha Simms, Lanae Bach, Lorraine Welk, Laura Brunton, Mitch Mariani, Chiquy

Schoenduve, Nancy Harris, Sharon Leonard, William Keig, Wes Rolley, Sue Woolsey, and Bob Snow.

CITY COUNCIL REPORT

Council Member Carr reported on two issues: 1) County-wide Committee that addresses Housing and Community Development Block Grant funds and their use. He indicated that this committee will be meeting tomorrow night to decide on its recommendation to the Board of Supervisors on how the funding will be allotted. He stated that there are Morgan Hill housing projects on the list to receive funding, including some projects that the Council has reviewed and supported. It was his hope that the Committee will move forward with the recommendation to provide funding to Morgan Hill housing projects. 2) He stated that the Morgan Hill Unified School District is going through a process of looking at boundaries for all schools. He noted that the School District is building a second high school that is planned to be opened in 2004. The School District knows that they will have to change boundary lines for the high schools and have decided to look at all of the schools throughout the District and give thought to how they will draw boundary lines. He indicated that the School District has invited City Manager Tewes, School Resource Officer Rojas and himself to serve on this committee to look at these lines. He said that staff from the School District as well as their transportation department are involved in the review process and includes principals and parents. He said that there were no representatives from the City three or four years ago when the boundaries were changed. Should individuals be interested in learning more about this issue, he recommended that they contact the School District.

COUNCIL SUBCOMMITTEE REPORTS

No reports were noted.

CITY MANAGER'S REPORT

City Manager Tewes indicated that he did not have a report to present this evening.

CITY ATTORNEY'S REPORT

City Attorney Leichter stated that she did not have a report to present this evening.

PUBLIC COMMENT

Mayor/Chairperson Kennedy opened the floor to comments for items not appearing on this evening's agenda. No comments were offered.

City Council Action

CONSENT CALENDAR:

Council Member Tate requested that item 8 be removed from the Consent Calendar.

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Chang, the City Council unanimously (5-0) **Approved** Consent Items 1-7 as follows:*

1. **APPROVAL OF CONSULTANT AGREEMENT TO PROVIDE DESIGN FOR THE 2002-2003 PAVEMENT RESURFACING PROJECT**

Action: *1) **Approved** Consultant Agreement with Harris and Associates to Provide Design Services for the FY 2002-2003 Pavement Resurfacing Project; and 2) **Authorized** the City Manager to Execute the Agreement, Subject to Review and Approval by the City Attorney.*

2. **APPROVE FINAL MAP FOR MORGAN LANE PHASE II (TRACT 9474)**

Action: ***Authorized** the Recordation of the Map Following Recordation of the Development Improvement Agreement.*

3. **AWARD CONTRACT FOR CONSTRUCTION OF BUTTERFIELD BOULEVARD – PHASE IV IMPROVEMENTS PROJECT**

Action: ***Awarded** Contract to Granite Rock Company, dba Pavex Construction Division, for the Construction of Butterfield Boulevard – Phase IV Improvements Project in the Amount of \$3,496,410.*

4. **AWARD OF CONTRACT FOR MODIFICATION OF LIFT STATION B SEWAGE PUMP STATION**

Action: ***Awarded** Contract to Trinet Construction, Inc. for the Construction of Modification of Life Station B Sewage Pump Station in the Amount of \$448,000.*

5. **VACATION OF A PORTION OF A STORM DRAIN EASEMENT ON LOT 45, TRACT NO. 7679**

Action: *1) **Adopted** Resolution No. 5663 Declaring Summary Vacation of a Portion of a Storm Drainage Easement on Lot 45, Tract No. 7679, 1180 Castle Lake Circle; and 2) **Directed** the City Clerk to File a Certified Copy of the Resolution in the Office of the County Recorder of the County of Santa Clara.*

6. **TEMPORARY COUNCIL ASSIGNMENT TO MORGAN HILL COMMUNITY HEALTH FOUNDATION (MHCHF) AND APPOINTMENT OF MAYOR AS ALTERNATE TO THE SOUTH COUNTY REGIONAL WASTEWATER AUTHORITY (SCRWA)**

Action: *1) **Approved** Temporary Change in Council Assignment to the MHCHF; and 2) **Approved** Mayor's Appointment as an Alternate to SCRWA.*

7. **ADOPT ORDINANCE NO. 1611, NEW SERIES**

Action: ***Waived** the Reading, and **Adopted** Ordinance No. 1611, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING ORDINANCE NO. 559 NEW SERIES, BY ZONING PROPERTIES IN VARIOUS LOCATIONS THROUGHOUT THE CITY TO MAINTAIN CONSISTENCY WITH THE GENERAL PLAN. (ZA-02-21: CITY*

OF MORGAN HILL-AMENDMENT OF ZONING MAP).

8. MINUTES OF SPECIAL CITY COUNCIL MEETING OF MARCH 19, 2003

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Chang, the City Council on a 4-0-1 vote with Council Member Tate abstaining, Approved the Minutes as Written.*

Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Agency Member Sellers and seconded by Vice-chair Chang, the Agency Board unanimously (5-0), Approved Consent Items 9, as follows:*

9. AUTHORIZATION TO APPLY FOR AND ACCEPT A CalHFA HELP LOAN FOR HOUSING PROJECTS

Action: *1) Adopted Resolution No. MHRA-243 authorizing the Executive Director to apply to the California Housing Finance Agency (CalHFA) "Help" Program for a Loan of up to \$1 million; and 2) Directed the Executive Director to do Everything Necessary to Execute the Loan with CalHFA, if Awarded.*

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Council/Agency Members Carr and Tate requested that item 10 be removed from the Consent Calendar.

10. MINUTES OF SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING OF MARCH 19, 2003

Council Member Carr referred to page 31 of the Minutes. He noted that the second action taken on this page describes an increase to development impact fees. He requested clarification whether this was the action taken as part of the motion.

City Manager Tewes indicated that the recommendation from the Parks and Recreation Commission included consideration of a proposal which would eventually increase the fees. However, to increase the fees, the City would need to conduct the proper study and hold a public hearing. He said that as part of the budget process, the Council/Agency Board would be able to take this action on a formal basis. He clarified that the Council did not increase the fees on March 19, 2003.

Mayor Pro Tempore agreed that the Council did not increase the fees but that the Council did accept the recommendation of the Parks and Recreation to increase the fees.

Action: *On a motion by Council/Agency Member Sellers and seconded by Mayor Pro Tempore/Vice-chair Chang, the City Council, on a 4-0-1 vote with Council/Agency Member Tate abstaining, **Approved** the Minutes, amending the second action to state that the Council would initiate a process to increase the fees.*

City Council Action

PUBLIC HEARINGS:

11. ZONING AMENDMENT APPLICATION, ZA-02-18: COCHRANE-IN-N-OUT BURGER/ APPLEBEE’S

Mayor Kennedy indicated that a request has been made to continue this item.

Mayor Kennedy opened the public hearing. No comments were offered.

City Manager Tewes informed the Council that the applicant has requested that this item be continued to April 16, 2003. He suggested to the applicant that as this is the second request for continuance the Council might pick an alternate meeting date.

Action: *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Continued** the public hearing to April 23, 2003.*

City Council Action

OTHER BUSINESS

12. CITY DIVERSION RATE

Assistant to the City Manager Eulo presented the staff report, indicating that the community has fallen below the 50% diversion rate. He felt that the City needs to do more to divert waste. He explained staff's perspective on why the rates dropped: 1) increase in waste disposal; 2) jobs were down in 2001 from 2000; and 3) recycling tapered off. He noted that recycling continues to increase as expected with population increases. He indicated that the City has a citizen solid waste advisory committee who has come up with great ideas on approaches to take such as a gold star program; and/or rely on antidotal information. He said that this advisory committee will be looking at the antidotal information next week and provide him with feedback regarding which campaign they believe the Morgan Hill populace would be most appreciative and responsive to.

Mayor Kennedy inquired if staff has resent updated recycling brochures that show the various recycling opportunities in Morgan Hill.

Mr. Eulo stated that the inside of the annual recycling calendar includes a spread on what citizens can do to recycle. He indicated that he has budgeted funds to produce another poster. He said that he wants to add an additional commodity to the curb side mix before producing a poster.

Mayor Kennedy said that the poster was helpful to know what can be recycled. He felt that the education and information process is helpful. He inquired whether there was an attempt to reach out to school/students.

Mr. Eulo stated that the City has a project taking place in every school, indicating that the elementary schools are focusing on an art aspect. He said that students will be using recycled beverage containers to make art. In addition, next year, using the same grant funds from the Division of Recycling, staff is looking at a science fair project at the schools that will also encourage the use of recycled materials in science projects.

Council Member Sellers said that it has been five years since the City first started to gear up and provide residents with recycling containers. He inquired how the City can get the word out that citizens can replace or secure additional containers.

Mr. Eulo advised that citizens can contact City staff for additional/replacement recycling containers.

Mayor Kennedy opened the floor to public comment.

Emily Trusdale, Live Oak High School student, did not believe that a star on a trash can would encourage citizens to recycle. She felt that people should recycle because it is good for the environment and not to attain a gold star.

Council Member Sellers felt that if individuals see stars in the neighborhood it will remind/encourage others to recycle.

Mayor Kennedy said that the City is having a problem because the City is required by law to divert/recycle over 50% of our waste. He indicated that the City is not achieving the 50% diversion rate. He requested that individuals provide him with suggestions on how to encourage citizens to do a better job of recycling, noting that these are just some suggestions.

No further comments were offered.

Council Member Tate said that he was disappointed when he first heard that the City fell below the 50% rate. He was pleased to hear staff's explanation of the circumstances. He stated that it does seem that the commitment to recycle has fallen as you see more of the recyclable items in the regular trash. He felt that programs will keep the focus/attention on recycling. He recommended that the City continue to remind citizens to recycle. He felt that the goal is to achieve 100% recycle.

Mayor Kennedy said that another way to reward individuals who recycle is to reduce the rates for those who have the least amount in volume waste. This was proposed by the Council initially,

however, a lot of individuals were concerned about this alternative because some families have more waste than others out of necessity. The Council has avoided a mandatory program that lowers the rate based on recycling efforts. If the City is not able to achieve the state mandated rate, the City may need to reconsider rates. He said that the City is relying on the public/community's support to use the recycling opportunities in place. If we do not, the City may be mandated by the State to change from a voluntary program to something more difficult.

Council Member Sellers recommended that staff publicize "feel good" promotions to recycling. He said that if citizens do not recycle, the Council may be forced to increase rates and be forced to look at alternatives. He said that some individuals may not respond to a "save the world" message but may respond to keeping rates low.

Action: *It was the consensus of the Council that staff was on the right track in providing citizens with more information, encouraging citizens to recycle more.*

13. ORDINANCE DELETING THE PERSONNEL COMMISSION

Human Resources Director Fisher presented the staff report and recommended that this commission be abolished.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0), **Waived** the Reading in Full of Ordinance No. 1613, New Series.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0), **Introduced** Ordinance No. 1613, New Series, by title only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL DELETING CHAPTER 2.48 (Personnel Commission) OF TITLE 2 (Administration and Personnel) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL ESTABLISHING THE PERSONNEL COMMISSION** by the following roll call vote: **AYES:** Carr, Chang, Kennedy, Sellers, Tate; **NOES:** None; **ABSTAIN:** None; **ABSENT:** None.*

14. REVIEW OF DRAFT EIR FOR THE MORGAN HILL COURTHOUSE

Planning Manager Rowe presented the staff report.

Mayor Kennedy inquired whether the Environmental Impact Report (EIR) can be used as a mechanism to attain additional focus on getting Caltrain service to coincide with the hours of operation for the courthouse.

Planning Manager Rowe responded that the EIR could be used as a way to argue for an enhancement of Caltrain services. He stated that one of the unmitigated impacts noted in the EIR

was impacts on air quality as a result of vehicle emission. To the extent that Caltrain service can be enhanced to provide another legitimate alternative to using the automobile, this would help the overall air quality.

Mayor Kennedy recommended that the applicant be asked to approach the Valley Transportation Authority (VTA) and Caltrain to make the request that services coincide with the hours of operation to that of the courthouse.

Planning Manager Rowe indicated that staff would include Mayor Kennedy's recommendation in the comment letter.

Council Member Carr said that in doing so, he hopes that the City would be asking for expanded service and not changing the limited service that exists today. To do so would dramatically impact the use that Morgan Hill residents currently have of the train service.

Council Member Sellers noted that the only significant impact on the courthouse would be the reverse of the service that is in place. He felt that it would be appropriate to push for enhanced Caltrain service.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Council Member Carr noted that the current courthouse design includes a detention facility for a 25-year flood and that staff is requesting a 100-year flood. He inquired if staff's request would quadruple the size of the detention facility.

Planning Manager Rowe indicated that the 100-year flood could be achieved by increasing the depth of the facility.

Director of Public Works Ashcraft said that the difference between a 25-year storm and a 100-year storm is usually only 20-25% and is based upon specific hydraulic studies of the area. He clarified that it is not built four times larger. In response to Mayor Kennedy's question, he stated that underground storm water retention was as acceptable as an open pit. In this case, it was his belief that the County was talking about an area for future parking. He felt that it would be more cost effective to construct an open ground storm water retention rather than a buried pipe or a box if the County needs additional parking in the future. He said that it would be an issue of land value versus construction costs.

Council Member Sellers appreciated that staff addressed the parking issue, particularly in the downtown. Although the City did not officially address the parking availability of VTA and some of the adjacent areas, it was his belief that there was anticipation, to some degree, that the parking would be used and be made available. He recommended that the City address access to the parking at the courthouse. He understood that the judges may require a secured parking area. If the balance of the parking spaces are secured or are inaccessible from downtown, this would be a concern. He said that it was his belief that the EIR stated that the increase in the number of individuals from this facility is concentrated when individuals arrive who would work at the facility, including jurors and

others. He felt that this would be an intense period of time, particularly at Monterey and Main.

Planning Manager Rowe indicated that the report states that there are only 12 parking spaces located in a secured area and the rest of the parking would be located in an unsecured area. He indicated that staff would like to get a sense of the project's impact to the intersection of Monterey and Main since it was not evaluated. In terms of being able to make improvements, the City would have to remove some of the public improvements installed in the downtown to create a dedicated turn lane that would be needed for left turn movements. He said that the City needs to know what impacts this project would have to the intersection before discussing mitigation measures.

Council Member Sellers stated that another issue that needs to be addressed are the changes that were discussed at the March 26 Council/County workshop that would have significant impacts on traffic flow on ingress/egress as well as access to the site. He said that he is noticing an impact to Butterfield Boulevard already. He was anxious about making other changes that may not be addressed if changes are made after the approval of the EIR. If an egress is provided north of Diana/Butterfield, it may necessitate another traffic signal or another mitigation measure. He inquired whether this would be addressed in the EIR or whether the City would wait to determine how the traffic impact would be addressed.

Planning Manager said that to the extent the City knows what the future improvements are to be, staff could communicate them to the consultant. The consultant could review the improvements in terms of cumulative build out.

Council Member Sellers stated that it was his belief that the Council shares a goal in the layout of the building but that he was concerned that in achieving the goals of moving the buildings it would have traffic impacts that would not be addressed if the EIR has been completed. He did not want to end in a worse situation than is already seen in the EIR.

Mayor Pro Tempore Chang said that she viewed a reverted plan alternative with the inclusion of a fire station. She inquired whether siting a fire station adjacent to the courthouse would affect the EIR.

Planning Manager Rowe indicated that the fire station scenario would not have an affect on the EIR other than stating that the ½ acre that is considered as surplus land would be needed to provide required parking based on the use of the facility by the year 2020. He said that the EIR states that there would be noise impacts by having the fire station next to the railroad tracks. He stated that mitigations have been included to address noise through the reduction of sound transmission to the living spaces of the station that would be the responsibility of the City to carry out. He said that the ½ acre surplus land could allow for a fire station to be built with a separate driveway accessing Diana to serve a fire station. The EIR states that the County will expect to need the ½ acre site and that the City should not locate a fire station on site.

City Manager Tewes said that if the City is to pursue a separate fire station, the City would have to undergo an environmental review.

Mayor Pro Tempore Chang inquired whether a detention adjustment would be needed for the fire station.

Planning Manager Rowe said that the EIR included a 3,000-5,000 square foot fire station building and that the run off would be provided off site.

Council Member Chang inquired as to the stage an individual would be required to pay for flood insurance (e.g., at 25-year or 100-year flood).

Planning Manager Rowe responded that the flood insurance requirements are imposed to properties located in the flood plain area, the 100 year storm event. However, this site is not located in the flood plain. As the City does not have an outflow for the storm water run off, public works staff is stating that the sizing of the on site retention basin needs to be capable of holding a 100-year storm event. He said that if any of the run off from this site was to go to the Butterfield Channel, it could result in downstream flooding because the Butterfield Channel would exceed its capacity. In order to mitigate any potential for downstream flooding from run off of this project, this project has to accommodate 100% of its run off; to accomplish this would necessitate over sizing the retention facility on site. He indicated that when Butterfield is connected and has an outfall to Llagas Creek, there would not be a need to store as much storm water on site. The storm drain could be reduced in size or eliminated in the future.

Mayor Kennedy referred to the vehicle transportation traffic portion of the EIR. He inquired as to the times the trip generations are occurring and whether they would conflict with commute hour traffic. He noted that the EIR does not state hours. He inquired what time the jurors typically arrive and where are they coming from.

Planning Manager Rowe responded that the a.m./p.m. hours are typically between 6-9 a.m. He stated that he did not have specific answers to Mayor Kennedy's questions but that he would look into the questions. He said that the Planning Commission reviewed the EIR last Tuesday. He indicated that the Commission did not provide comments as a group. However, he did receive individual comment letters from two Commissioners and that he plans to forward these letters as public comments on the draft EIR.

Mayor Kennedy wanted to know the time peak traffic hours occur. If it is 8:30 a.m., it is not nearly as bad as 8:00 a.m. when parents are taking their children to school and commuters are going to work where the courthouse traffic would conflict with other traffic. He said that VTA's Route 68 that comes from Gilroy to San Jose could be heavily used, noting that it currently goes through downtown Morgan Hill. He felt that it may be appropriate to route Bus 68 through Butterfield and take it in front of the train station.

Council Member Sellers noted that the bus stops at the Community Center and Rosy's at the Beach. He did not believe that the bus route enhances retail sales and that it creates other issues with the concrete padding. However, he felt that there needs to be access to the bus and that this may be a way to divert traffic.

Mayor Kennedy recommended that Bus 68 goes from Monterey to Dunne Avenue onto Butterfield Boulevard and that the bus goes into the Caltrain station. Individuals can access the downtown from this area by bus. He requested that this be incorporated as a suggestion as part of the mitigation measures as well.

Council Member Tate inquired if there was a noon peak hour traffic. He felt that the courthouse orientation issue would place an impact on individuals getting into their cars and driving somewhere for lunch as there is no convenient way to walk to lunch. He inquired if this could be included into the EIR response.

Planning Manager Rowe responded that the City could request that the evaluation also include a noon peak hour impact based on the characteristics of the use.

Mayor Kennedy said that there would be a mitigation to this problem by flipping the orientation of the entry of the courthouse. He felt that placing the entryway closer to the downtown would encourage jurors to walk to the downtown. If the entryway is sited at the corner of Diana and Butterfield, it would encourage jurors to get into the cars versus walking to a restaurant. He said that the vehicle trip generation contained in the report only identified a.m. and p.m. peak hour traffic and does not include mid day peak hour traffic.

Council Member Sellers stated that at the workshop, the Council concurred that individuals should be encouraged to walk downtown. He said that the noon hour may be an impact as far as parking and would require individuals to drive to find parking spaces.

Council Member Carr inquired whether the EIR addressed what times the prisoners would be brought to the facility. If so, would these times coincide with peak traffic times as his concern was that of aesthetics of the bus transporting defendants in custody?

Planning Manager Rowe said that the EIR indicates that prisoners would be brought to the facility at the beginning of the day. He said that defendants are brought to the facility at the start of the business hour (8:00 a.m.) and that they are transported back to the County jail facility in the evening or after the disposition of their case.

Mayor Pro Tempore Chang referred to the impact fees for storm water, water, and waste water. She inquired whether these would be the City's or County's expense.

City Attorney Leichter said that this is an issue that the City has raised with County Counsel as to whether the County is obligated to pay City impact fees. She said that this is an issue that is under consideration by their office. However, staff felt that it was appropriate to raise the impact fees in the draft EIR so that the impacts upon the City's public facilities and systems are noted in the EIR. She said that normally, this would require a mitigation or that a mitigation would be included that would require payment of impact fees to offset the significant impact. Staff noted that this was not included in the EIR; therefore, staff felt that it was appropriate to include a comment to this fact. She said that it would be the County's responsibility to pay the impact fees.

Mayor Kennedy noted that it is stated that the project's peak parking demand exceeds the proposed off street parking supplied on the site. The County is proposing to install gravel on the ½ acre surplus land. He inquired whether this was the detention facility.

Planning Manager Rowe indicated that the storm drain is proposed in area 12. He said that should the County feel that they need the area; it would be prudent to develop the parking area. Doing so would preclude the location of a fire station on site.

Mayor Kennedy indicated that the Council has agreed that the fire station would no longer be proposed on the Courthouse site. He said that the Council is considering acquiring the adjacent parcel for a fire station. He inquired whether the City should go back to the County to advise them that there is no longer a need to retain the ½ acre area for a possible fire station so that the County can pave this area.

City Manager Tewes stated that Mr. Carruth advised the City that in 2020, the County would need the additional ½ acre for parking and that it was their intent to reserve this area for parking. Therefore, the County already informed the City that there was not an opportunity for a fire station on the ½ acre area. In the subsequent session, the Council, indicated that if the City was able to provide a fire station site in the area, it would be on the VTA property located to the north. He said that staff could clarify this fact with the County.

Planning Manager Rowe said that the area proposed to be paved would still result in under parking per County standard. If the City no longer has a need for the ½ acre surplus area for a fire station, he recommended that the City forward this information to the County. He felt that the impact to downtown parking would be reduced if the project provided on site parking in the facility the County develops.

Mayor Kennedy recommended that staff notify the County that it is the City's proposal to site the fire station on the adjacent parcel.

Council Member Carr noted that at the workshop held last week with the County, alternative designs were discussed that affected the layout of the two buildings with the idea that the City would try to purchase the land immediately to the north to develop a fire house or other public use. He inquired how these changes would affect the EIR.

Planning Manager Rowe said that as long as the basic parameters of the building/site layout design remains the same, no revisions to the EIR would be required in terms of the exhibits. He did not believe that the discussed changes would be significant enough to require a recirculation of the EIR or any portion thereof. He indicated that he was not privy to how extensive the changes would be and that they would need to be examined.

Mayor Kennedy requested that Planning Manager Rowe take a look at the design prepared by Mr. Dumas. He requested that staff include in its comment letter the Council's preference of an alternative plan, should the Council be supportive of it. He felt that the alternate plan would encourage lunch hour pedestrian traffic to walk to a restaurant or a place to have something to eat

rather than getting into their cars. This would avoid additional traffic and air pollution.

Council Member Carr said that his biggest concern is the lack of orientation to the downtown. He understood that this is a valued piece of property to the County based on the intersection of Diana and Butterfield. He noted that the current orientation is toward the corner of Diana and Butterfield, a design that is not advantage to the downtown. He said that individuals supported this project based on its relationship to the downtown. He requested that a relationship of this project to the downtown be addressed and talked about in the EIR, especially if this is a facility that the community of Morgan Hill is expecting to be around 50-100 years adjacent to the downtown. He felt that the Council should be striving to make sure that this is what is achieved from the project.

Mayor Kennedy felt that the peak traffic congestion would occur at Dunne and Butterfield for individuals coming south or the north of Morgan Hill. He inquired whether the traffic movement was consistent with what was shown for the peak hour traffic.

Council Member Carr agreed that the current traffic heading west on Dunne and turning north onto Butterfield backs up the right hand turn lane past the entrance to the Creekside development, noting that complaints have been received from residents trying to get out of this development in the morning because of traffic. He said that when Highway 101 north opens up, some of this traffic would lessen. Adding an employee/juror count at the peak hour would have an effect on the Dunne and Butterfield intersection as well as the Diana and Butterfield intersection.

Planning Manager Rowe indicated that the EIR contains a figure 4 located on page V-E-7 that confirms the Mayor's observations as far as a.m. peak traffic impact.

Mayor Kennedy requested that staff take a closer look at the Dunne and Butterfield intersection to see if it in fact makes sense. He said that intuitively, based on City experience, it is known that a problem exists at this intersection. He felt that a mitigation(s) needs to be incorporated.

Action: *By consensus, the Council **Received** Public Comments on the Draft EIR; and **Provided** Comments to Staff for Assessment in the Final EIR as stated above.*

Mayor Pro Tempore/Vice-chair Chang excused herself from the remainder of the meeting.

Council Member Carr said that at last week's workshop with the County, County staff requested that should the City decide to purchase the property to north, that the City get back to them with its thoughts. He inquired whether the Council needs to take action on this or whether staff is taking the lead on the site to the north. He noted that a suggestion was made to hold a special meeting to discuss options.

Council Member Sellers said that an offer was made that if the County felt that it was of value, the Council would try to accommodate a special meeting. He felt that it would be valuable to express the Council's interest.

City Manager Tewes indicated that the Council previously directed him to make a proposal to VTA.

Based on the workshop, it is his hope to get a preliminary answer from VTA, noting that the initial answer from VTA a couple of months ago was that they were not interested in selling the land. Staff initiated contact with VTA and that there may be a possibility that they would be interested in selling the land. It is his hope to get an initial answer prior to April 9. He stated that at the workshop, the Council raised a number of concerns about design issues and the architects for the County indicated that they would go back and think about how best to respond to the Council's concern and check with the County on how best to convey their response, if they had one, back to the City with the understanding that April 9 was an important milestone in their planning process as well. He informed the Council that staff has not yet heard back from the architect nor the County on how or whether they intend to respond. He indicated that April 9 is an available date for a special meeting to deal with this issue.

Mayor Kennedy said that another issue raised was that of the site layout. The Council suggested a specific layout and that the City offered to come up with a layout.

City Manager Tewes said that Mayor Kennedy specifically asked staff to draft a site layout, indicating that staff has prepared a draft and that it is available for Council review. He requested Council direction on what to do with the draft layout.

Mayor Kennedy said that staff's alternative site layout provides a much better layout in terms of the City's needs than the current layout as proposed by the County.

Council Member Tate felt that the Council addressed the issues in terms of the design of the building and the proximity of the project to the downtown that was discussed through the EIR process. He stated his support of turning the building around. He strongly supported the location of the fire house in this corridor. He indicated that the City has been informed that there is no possibility of placing the fire house on the courthouse site. He did not see another alternative other than to try to purchase the VTA land as a location for the fire house as it is essential to the implementation of the City's fire master plan. He supported the Council's recommendation to reverse the building as well as the comments made on the design of the project in addition to locating a new fire house in this area.

Council Member Sellers shared the goal of increasing access to the downtown. He stated that he remains concerned about two issues raised at the workshop that need to be dealt with: 1) internal flow of traffic through the parking site. He indicated that most of the traffic will end up at the courthouse facility if accessed from Butterfield and Diana. He felt that the design limits drop offs to the facility. 2) Concern with traffic at Butterfield, limiting egress/ingress if the project does not make Diana and Butterfield the primary access. He felt that the City needs to state its goals clearly to the County and show them alternatives as a good faith effort, identifying the City's goals. He shared Council Member Tate's concern about the fire station site. He felt that there would be other logistical problems that arise by having the fire station right next to the main hub of the courthouse facility. He recommended that the City indicate to the County that the City is actively pursuing the VTA land for acquisition and present the County with the City's alternate plan as a good faith effort to see what they come up with in order to accommodate the City's goals.

Council Member Carr stated that this has been a difficult issue for everyone. He felt that everyone has worked well in trying to come up with positive ways for improving the site, working with the County on the layout with the idea of the courthouse and the adjacent facilities meeting Morgan Hill's needs, the County's needs, and eventually the State's needs. He stated that he walked away from the workshop last week being convinced more than ever that this is the wrong site for this project. This being said, he said that he continues to find positive ways to provide comments and input to the site and make it as acceptable as possible. He agreed that the City identified this area for a fire station and a police station. He said that the City has given up on its interest in placing a police station on this site because it was not going to work. Now, the City is struggling with how to site a fire station in this area. He felt that the Council needs to be able to express this fact. He felt that the community and County needs to understand this as the City and County tries to work and make this project come together. He stated that the greatest emphasis of the County project needs to be its relationship to the City's downtown and how this works. He noted that the Design Guidelines state that the City wanted two fronts. It is his hope that the County's architect will be able to come up with two fronts. He stated that the City cannot forget that on the other side of the courthouse facility is a residential area that is concerned about this project. He felt that the City needs to acquire the property to the north and that it should be the City's first goal to fit a fire station. Even if not built as a fire station, he felt that the VTA land would still be a valuable piece of property for the City. He felt that the City should find space for a fire station in close proximity as a goal that needs to be addressed.

Mayor Kennedy stated that he heard strong support for the fire station being in this area from Council Member Tate. He also heard support for a layout that brings the entryway closer to the City's pedestrian walkway. He felt that Council Member Sellers was in general support of this, but that he was not necessarily tied to this layout, wanting to give the County and the architect flexibility in their design. He felt that the Council was in general agreement regarding its comments.

15. MEASURE P UPDATE – STATUS

Director of Community Development Bischoff walked the Council through the draft amendments that the Measure P Update Committee (Committee) will be recommending to the Council in June to be placed in the ballot later this year or potentially the beginning of next year. He indicated that last July the Council appointed a Measure P Update Committee specifically asking them to look at changes that might be placed to the voters. He said that the Committee has identified 27 separate sections of Measure P that they propose be amended. The purpose of the meeting this evening is to bring the Council up to speed on what the changes are and to solicit input from the Council should it feel that the Committee is not heading in the right direction or whether there were other types of amendments that the Council believes that the Committee has not considered to date. He indicated that the Planning Commission reviewed the changes on March 25 and that the staff report includes the Commission's recommended amendments. He indicated that the City conducted a community survey of the proposed amendments to try to gauge community support of the amendments. He stated that a law firm has been hired to assist the City in drafting the proposed amendments into initiative language. He said that the initiative language, as well as the results of the community survey and the comments from the Planning Commission and the City Council, will be considered

by the Committee later this month. He said that on April 29, the Committee plans to hold a community workshop as another forum for obtaining community input with respect to the amendments being proposed. He stated that there are two effects the amendments have that the Council will not see itemized but are secondary effects of the proposed amendments. One has to do with meeting ABAG's fair share housing allocation. He stated that based upon the amendments being proposed, it would be possible for the City to meet ABAG's fair share of housing allocation by extending the population of 48,000 to year 2020 and would be consistent with the General Plan. The other issue deals with the east/west Monterey Road split, indicating that there is a proposed amendment to eliminate the east/west split that exists today. Elimination would have the effect of a need to expend the City's urban service area.

Council Member Tate thanked Mr. Bischoff for his support of this Committee and for keeping the Committee on track. He said that this has been one of the most challenging sub committee assignments that he has had as a Council Member in terms of trying to reach an agreement. He said that the Committee reached consensus to most proposed amendments but not generally unanimous consensus. By the time the Committee concluded their review of the proposed amendments, they were comfortable that they could support the position that the Committee came to.

Council Member Carr agreed that this was a very large committee based on the Council's need to have representation from a broad section of the community. He agreed that this was a challenging Committee, indicating that the committee received public comments.

Director of Community Development Bischoff walked the Council through the proposed amendments as follows:

1. Committee encourages the Council to establish the downtown area as an area that is consistent with the downtown as defined by the Downtown Task Force (bound by Del Monte on the west, Butterfield on the east, Main Avenue to the north and Dunne Avenue to the South). The Commission is not asking that the description be placed on the initiative because they realize that over time, as the downtown develops, the Council may want to expand the area.

Council Member Sellers stated that the Downtown Plan primarily talks about the defined area but that there was discussion regarding the definition being expanded to areas south to Tennant and north as far as Cochrane Road in order to address street improvements and housing opportunities (blocks north and blocks south of Main and Dunne). He was pleased to hear that the downtown area was not going to be specifically defined at this time.

Council Member Carr stated that Council Members comments were important to the Committee as well and that it did not want to spend a lot of time defining the downtown as there is already a task force defining the downtown.

2. This section identifies that there are certain areas outside the City that receive city services: Holiday Lakes Estate (unit I), Casa Lane, and El Dorado III. Measure P amendments proposes to remove hurdles to annexation and would not count against the Measure P

population cap and would not meet the definition of Desirable Infill.

Council Member Sellers said that annexation of these areas would increase the population cap to 48,293. He wanted to make sure that the City is not pretending that these numbers do not exist or that there are two sets of population numbers being worked off of.

3. A number of the changes are not so much changes as they are clarifications. This section is one that is unclear/ambiguous. This section would allow for allocations to be determined once every two years and that allocations be given on a two year basis instead of annually. The proposed language would clarify that should the Council wish to conduct two year competitions, that it can certainly do so and that the Council determines the population once every other year. The amendment would also tighten up the way by which the City determines the number of permits that can be allocated in a given year. He said that there have been some concern expressed that the City has over built in some years. He said that there are a number of things that go into building; some having to do with the idiosyncrasies of the formula such as allocations awarded that have not been built and units exempt from Measure P, and the actual population per household of the new homes being built. There would be changes to the formula that would take these things into account so that the City can be more accurate in determining the number of annual allocations. Also, to be taken into account is the annexation of any developed areas such as Holiday Lake Estates or El Dorado III.
4. Deletes the east/west split. It has been found that there is a much smaller supply of vacant residential land on the west side of Monterey Road. Should the City want to retain the east/west split and keep the requirement that 1/3 of the units be built on the west side, he said that the City would be going into environmentally sensitive areas that the City would prefer not to develop in. He said that there are other flat lands that do not have the types of environmental constraints that other lands have that might be better to develop first.

Council Member Tate said that another aspect of the proposed change is that you would take the highest scoring projects on the east and the highest scoring projects on the west. He said that the east side has a lot of available land; therefore, the projects that compete score in the 180s. On the west, a project may only be the only application and receive allocation on a passing score, resulting in the City not getting the best possible projects. Having projects compete city-wide would be better in terms of getting high scoring projects and the benefits that come with the project.

Council Member Carr said that some Committee members saw the east-west split as taking away from the priority of desirable infill and building from the core out especially on the west side. Having this split would promote sprawl versus building in a compact design adjacent to existing development.

5. Recommend that a downtown set aside be established, for FY 06-07 through FY 09-10 (four years). Further, that there be a requirement that a certain number of allocations be reserved for projects in the downtown area. The Council to determine the geographic boundaries of the downtown area and determine the number of units to be reserved for the downtown area.

It was felt that this builds off of the work of the Downtown Task Force to help promote more business in the downtown.

Council Member Sellers stated inquired why it is being recommended that this section be amended to be permissive rather than mandatory.

Mr. Bischoff said that the Commission felt that over time, things change and felt that it was important for the Commission and the Council to have latitude and flexibility. He said that this would be a measure that would be in place for another 17 years. The Commission felt that requiring that the Council have an allocation over an extended period of time would be appropriate.

Council Member Tate said that there was extensive discussion about whether it should be mandatory or permissive. He said that the Committee wanted to make sure that in the first four years that the City strongly suggests that downtown set asides be in place, indicating that it was a compromise to state that the downtown set aside would only be for the first four years to kick start and try to meet the downtown goals. He indicated that a 2/3 vote was needed by the Committee to be able to forward this recommendation.

Council Member Carr indicated that the original proposal was to have a set aside for the downtown for the life of the plan. The compromise was to have downtown set aside units at the beginning to help kick start the downtown.

Council Member Sellers felt that downtown set asides need to be made mandatory. He expressed concern that there may be significant unintended consequences that have evolved from Measure E/P. Defining the core area and how it evolved ended up where the City has development in the corner and nothing in the middle. He felt that the Council has an opportunity to address this concern and that it can state that this is important and vital. There are benefits to having downtown allotments and that it would be valuable to have residential development to help businesses. However, the Council needs to point out to the voters that there are benefits to having transit oriented development. He stated that there are intrinsic benefits to having downtown residential development whether or not there is benefit to businesses. He said that when the proposed amendment returns to the Council, he will be looking to see if there is a strong statement that there is to be development in the downtown area. If after several years, no one develops in the downtown, this section can be modified. However, he did not believe that this would be the case as the market and the demand will dictate that there will be individuals willing to develop in the downtown. He expressed concern that a narrow majority of the Planning Commission was watering this section down and felt that the statement needs to be stronger.

Council Member Carr said that the proposed amendment was written such that it provides for a mandatory kick start to get development going in the downtown.

Action: *It was the consensus of the City Council to support the Measure P Update Committee's recommendation and not the Planning Commission's recommendation.*

6. Amendment would allow the City to conduct one or two year competition at the Council's

discretion.

Council Member Sellers stated that he wanted the section to provide flexibility that would allow yearly competitions for the downtown but that the rest of the City could be allowed competitions every other year.

Mr. Bischoff indicated that the proposed amendment would allow flexibility in one or two year competitions.

7. Addressed vertical mixed use projects such as retail on the first floor with residential above. It was indicated that the Committee talked about the problems for this type of development as it relates to Measure P. A problem identified is that a developer can build a commercial building today but has to wait two to three years before building the residential units above the commercial uses. This tends to discourage individuals from this type of mixed use projects. As a way to facilitate/encourage this type of development, there is a proposal to establish a set aside for mixed use projects. The Council or Commission could award allotments through a competitive process or on a first come, first served basis. The Council could establish a higher minimum score for this type of projects to ensure quality development, with the expectation that mixed use development would occur in the downtown but that there is no requirement that these be built in the downtown. Unused allocations can be carried to the next year but that the City could not carry enough so that you would have more than 30 units at any given time. The City could never award more than 15 units to a given project. The Planning Commission, by a 4-3 vote, recommends that these parameters be modified to give more discretion to the Planning Commission and City Council.

Council Member Tate said that in their recommendation for flexibility the Planning Commission did not make specific language recommendations on what the flexibility would incorporate. He stated that he did not know how to come up with more flexible language.

Mr. Bischoff indicated that some Planning Commissioners felt that the set aside number should be higher while others felt that the number should be lower. He stated that the Commission is suggesting that there be more flexibility given to changing the number of set asides on an annual basis, if needed.

Council Member Sellers was not supportive of identifying a specific number of set asides for mixed years. He said that mixed use projects are based on a different set of economic criteria in order to be viable. He was anxious that based on a lot size, a developer may be required to have 11 units in order to make the mixed unit development viable.

Mr. Bischoff noted that the recommendation suggests that up to 15 allocations could be awarded to a given project but that you could not allocate more than 10 in a given year. In order to allocate 15 units, you would have one year that went unused and carry it over to the next year. He said that a concern of the Committee was that for the larger projects you may have a major project that should have to compete. He noted that the lots in the downtown area are small. If you take a typical lot in

the downtown that is 40' x 140', you might be able to develop 5 units above a commercial use. He said that it would take an aggregation of a number of lots before you can develop above 15 units.

Council Member Sellers inquired whether a developer would be required to apply under this specific set aside for a mixed use development or can he apply as part of the downtown set asides, or can there be a combination of allocations.

Council Member Carr said that the Committee considered whether it was limiting the entire competition to set asides, noting that there are a number of set asides being proposed. The Committee reviewed set asides as being geographically the same or similar areas and that mixed use projects could be built a little further out from the downtown but along the Monterey corridor.

Mayor Kennedy expressed concern with this section with respect that the de facto that it would encourage small lot projects. He felt that the Council would want to encourage putting together small lots into a bigger project. He envisions having one nice larger project with commercial/retail on the first floor and housing on the second floor. As written, this proposed amendment would discourage large development. This is the opposite of what he would like to see.

Mr. Bischoff said that most of the downtown is divided into lots that are 40' x 140'. Unless an individual is able to aggregate them, you would not be able to take advantage of the set aside. He noted that if a mixed unit proposal is larger than 15 units, it would have to compete as a regular open market rate Measure P project.

Council Member Sellers expressed concern that there is a difference between the maximum allowed in a project and the maximum number allowed per year. He noted that these are different kinds of projects. The economics that make mixed use projects viable are different from that of a strictly residential project. He was anxious that the City would preclude mixed use projects because of the two year allocation process to develop up to a 15 unit mixed used development as it would be hard to make this project viable.

Council Member Carr indicated that there was not a scientific study behind the numbers being recommended. The Committee did not visit every lot in the downtown nor calculated the economics of a project. The Committee discussed the generalities of what a project would need to be viable and the realities of what can be built in town based on space that is available/combined. The number identified was a compromise.

Mr. Bischoff said that the Committee felt that a large mixed use project should be able to compete with other Measure P projects and that it should not benefit from any special treatment.

Council Member Sellers said that his fundamental concern is that in making a mixed use project compete against other market rate projects the City would be ignoring the unique economics that make mixed use projects viable. He did not believe that you could construct a phased in project for a mixed retail/residential use. He requested that the Committee consider increasing flexibility.

Council Member Tate indicating that the Committee felt that when a project gets to a certain size,

the economic considerations get diluted by the fact that it is large enough project to compete.

Council Member Carr said that Committee members who supported a set aside for mixed use had to fight to get the set aside to this size. Allowing more flexibility does not mean that it becomes larger, combines lots, and creates a project that individuals would like to see. He felt that 2-8 years from now a set aside for mixed use would disappear or the set asides would become smaller.

Council Member Sellers said that Council Members are the only individuals in the process who are elected to make decisions. He did not believe that the Council can abrogate its responsibility. He stated that he has respect for the entire process. He stated that he would support recommendations of the Committee. However, should the Council have significant concerns and believe that they are wrong, the Council cannot advocate supporting the recommendation of the Committee. If the Council believes that sections are wrong, the Council needs to make the change before it goes to the voters.

Mayor Kennedy expressed concern about the specific numbers that are shown. He would support the amendment without indicating specific numbers.

Action: *It was the consensus of the split 4 member Council that the Committee is to relook at this amendment with the idea of trying to make it more flexible.*

8. Provision in Measure P states that lands that are designated as open space in the General Plan shall remain that way until the year 2010. The proposed amendments would extend this time period out to 2020.

Mayor Kennedy said that he would like this amendment go out longer than this time period.

Council Member Carr indicated that it is his hope that the urban limit line would define the time period.

9. The Committee understands that the Urban Limit Line/Greenbelt study was commencing. They wanted to ensure that anything that was done with Measure P would be consistent with this study.

No comments were offered.

10. This section proposes to amend the expansion of the urban service area until there was less than a five year supply of vacant residential land available. This section would amend this to state that five years beyond that required to accommodate the number of units in the next competition. This amendment would ensure that there would be a five year supply of residential land available.

Mayor Kennedy inquired whether this should be amended to state 4 or 5 years, whichever is greater.

Mr. Bischoff said that he does not know of any circumstances to which it would not be greater. The proposed amendment would make sure that you are not counting the land that would be absorbed by the allocations that have already been awarded and not yet built.

11. Expansion of the Urban Service Area for desirable infill. Measure P allows for desirable infill provided that there are tracts less than 20 acres in size and that there is some benefit to the City that is gained by including land into the urban service area. The amendment being proposed would require the Council to make findings in terms of what the specific benefit would exist. In addition, there is a requirement that whenever the benefit is to be realized by the City within four years of the property being added to the urban service area, the proposed amendment would significantly tighten up desirable infill. The majority of the Committee felt that desirable infill may be abused and that it was the intent of Measure P that it was to be construed much more narrowly than it has been in the past. By adding these conditions, they would be more consistent with the intent of Measure P. The Planning Commission felt that the requirement to provide these benefits within four years was extremely onerous and would result in receiving no requests for expansion of the urban service area under the terms of desirable infill. The Commission recommends that the Council delete the condition that would require installation within four years.

Mayor Kennedy inquired whether it was the plan to bring the proposed amendments to the Council with the survey results.

Mr. Bischoff said that it would be the final recommendations of the Committee with the Planning Commission that would return to the Council on June 4, 2003. He stated that it was originally felt that the City needed to place the proposed amendments on the November 4, 2003 ballot for two reasons: 1) it was felt that this would give the City more time to meet ABAG's fair share requirements; and 2) should the ballot measure fail, it would allow the City more time to make changes and yet be able to meet ABAG's fair share housing requirement. He indicated that staff has found that the time was not as critical. If instead of taking the amendments to the voters in November 4, the Council could take the proposed amendments to the voters in March 2004 at the primary election as that would not have an effect on the City's ability to meet or not meet ABAG's fair share. He indicated that staff originally estimated that the cost of an election \$15,000-\$20,000. Staff has learned that the Registrar of Voters will be purchasing new electronic voting equipment and that this may be the only measure on the November 2003 date, resulting in a cost to the City of over \$100,000. From a cost perspective, there may be some benefit in waiting to place this on the March 2004 primary election. Also, the primary election may result in a larger voter turnout. Should the Council want to place the measure on the November 2003 ballot, the Council will consider the proposed amendments on June 4. The Council would have approximately a month to make last minute minor changes, noting that the environmental process will have commenced. Therefore, the Council would not be able to conduct significant changes. Should the Council decide to place the measure on the March 2004 ballot, the Council has additional time to consider proposed amendments.

Council Member Tate noted that there are 27 recommended amendments to Measure P and that

there may be 3-4 items that will be controversial among the Council. He felt that after a meeting of the Committee, the Committee could bring back the 3-4 items that are controversial for further discussion by the Council at an interim meeting before June 4.

Mayor Kennedy stated that he would like to review all of the amendments, including the survey results.

Council Member Sellers recommended the Council discuss whether or not the proposed amendments should be placed on the November 2003 ballot. He stated that based on what staff has indicated, he would be inclined to support placing the proposed amendments on the March 2004 ballot as it would be fiscally responsibility to do so. He felt that placing a measure on the November 2004 ballot would be too late although a case could be made that there will be a couple of Council Members up for a vote and that there would be some benefit to placing the measure along with the November 2004 ballot. However, he felt that the process would unravel should the Council wait for the November 2004 ballot.

Council Member Tate indicated that the Committee did not have a recommendation on the preferred election date. He stated that the Committee had a charge from the Council to place a measure on the November 2003 ballot, noting that the Committee has worked diligently and hard, scheduling extra meetings to meet this schedule. He felt that the Committee would appreciate more time to review the proposed amendments a few more times and the Council would wait to review the proposed amendments as well.

Mayor Kennedy and Council Members Sellers and Tate supported placing the measure on the March 2004 ballot based on the comments on the election costs, workload, meetings and the opportunity for dialogue between the Committee and the Council.

Council Member Carr stated that he was not opposed to placing a measure on the March 2004 ballot but noted that this ballot would be a crowded ballot. He felt that the City would lose a certain amount of spotlight on this measure but that it would be a greater voter turnout. He felt that having a greater voter turnout as being an advantage. He felt that the more time the Council has to study the proposed amendments the better. Should the Council suggest that the measure should be placed on the March 2004 ballot, he does not recommend that the Council direct the Committee to change or to do anything different, forwarding its recommendations to the Council by June 4, 2003 timeline.

Council Member Sellers concurred that he did not see any reason for the Committee to change their timeline. He felt that the Committee was almost finished with their charge and requested that they finish their work.

Mayor Kennedy expressed concern with the process if the Council is rushing the amendments back. He expressed concern that the Council may not have enough time to have a dialogue and provide input into the process.

Council Member Carr did not believe that the Council should change the process as the process is

almost completed. Should the Council have a stale mate on an item, the Council could ask the Committee to provide additional thoughts on the item(s). He noted that the Committee has not seen the survey results. They will review the survey results and hear the comments of the Planning Commission and the City Council. The Council will have an opportunity to make minor adjustments as a result of these three different things.

Council Member Tate said that the process could be changed at the end if there is dialogue that has to take place.

Council Member Sellers noted that Council Member Tate has suggested an opportunity to come back on an interim basis to the Council with the survey results. He supported having the Committee stay on track.

Mr. Bischoff indicated that staff did not receive Council feedback or direction about the requirements that improvements be installed within four years, noting that the Commission had some concern about this requirement. He indicated that the Committee felt that there was not much, if any, benefit to the City realized from desirable infill. The Committee felt that this should not be allowed as it was inconsistent with the spirit of Measure P.

Council Member Sellers expressed concern that the City would end up with several requests for extensions, noting that the Council currently considers several requests for extensions each year. It was his belief that the proposed amendment would guard against the bad faith efforts of someone who just wanted to annex properties into the City and then sit on the property. He stated that he tends to agree with the Planning Commission recommendation.

Council Member Tate felt that this was a political issue. He said that there are a lot of individuals who believe that they thoroughly understand the intent of Measure P and that this was an area where Measure P was trying to exclude infill that was not going to benefit the City. These individuals have seen abuses to this over the years and that they are trying to tighten this area. He said that there was one member on the Committee who was on the Committee to address this issue. This Committee member did not believe that this was something that could be left to the trust of the Council. He felt that there would be some problems if the Council does not address this issue.

Council Member Carr said that the development community on the Committee supported this recommendation.

Council Member Tate said that he is interested in getting the ballot measure passed and not receive opposition to the entire update process based on one small issue that he could live with.

12. This amendment changes some of the submittal requirements under Measure P to make it easier for everyone involved (e.g., require a narrative landscape plan as opposed to a specific plan; information on schools was not necessary because schools have been incorporated into the scoring of projects; financial information is useless because circumstances change). This amendment would have no material affect on the scoring of projects.

13. This amendment is just a wording change.
14. This amendment moves up the filing deadline and moves up the award of the allotment date to give projects a few extra months to get started.
15. This amendment deals with the number of points awarded under several categories in Measure P. Currently, safety & security receives the fewest number of points in the competition. The Committee recommends that the safety & security section receives a maximum score of 10 points. They further recommend reducing the number of points under natural & environment to 10 points from 15 points to minimize the potential of individuals seeking out environmentally sensitive properties and develop them to attain additional points. By reducing the number of points, the City would minimize the incentive to develop environmentally sensitive parcels. This amendment would also add a third category entitled “livable communities.” A project would receive points for incorporating the concepts of livable community sometimes known as Smart Growth that deals with such things as proximity to transit, pedestrian orientation, efficiency of street system, mixed use development, etc. The Committee also wanted to add an overall project excellence because they felt that sometimes the City’s criteria is so objective that there is no opportunity for the Planning Commission or the Council to look at a project and grant a couple of additional points for being a great project. This would be a category where the overall project excellence could be recognized. The Committee is recommending 10 points be assigned to this category. The Planning Commission generally supports these recommendations.
16. The required passing score for projects is 125 points. The Committee is recommending that the bar be raised. For Micro and affordable projects, the minimum passing score to be increased to 150 points and that for all other projects, the minimum passing score is to be 160 points. The Commission was supportive of this change.
17. This amendment is a clean up to take care of an existing practice that may not consistent with the wording of Measure P. A literal reading of Measure P states that the highest scoring project should get however many allocations it wants. Past practice has been to give allotments to the highest scoring projects but that often times, the Planning Commission has spread the allotments amongst a number of projects. The amendment would make a major adjustment which still requires that allotments be given to the highest scoring projects but allows the Planning Commission to distribute the allotments to create a balance and equitable distribution of allotments, helping to achieve the goals of the General Plan. The only concern that the Planning Commission had with the proposed amendment is that they wanted to make sure that this had close legal review to make sure that it would withstand any legal challenge that might be made to it.
18. The proposed amendment would provide a few extra months for projects to get started. The Planning Commission was supportive of the amendment.
19. This amendment is a minor wording change.

20. Allows for allocations to be awarded into a second or third fiscal year, consistent with past practice.
21. The City has been trying to encourage custom homes to be incorporated into projects. With the City's definition of custom homes, they cannot be built by a developer. Custom lots have to be sold to individuals and built on a lot by lot basis. The amendment would allow an additional 24 months for custom lots to be built.
22. Standardizes appeals to 15-days for anyone wishing to appeal versus the current three different appeal time frames to avoid dragging the process out and avoid the delay of projects getting started. The Planning Commission supports this amendment.
23. Rescinded Measure P allotments can be awarded to any other project that has received allocations and is capable of using the allotments within that fiscal year. This gives the City a more viable option of what to do with rescinded units. The Planning Commission requests legal review of this proposed amendment.
24. If the City is to eliminate the east/west split, the Committee recommends that something is put into place that would tend to encourage development near the central part of the City. The Committee recommends that the core be defined as the area bound by Del Monte, West Little Llagas Creek; Cosmo, Church Street, Main Avenue, railroad tracks and Wright Avenue. Points are given for projects closer to the core area under the orderly & contiguous category. The Committee was interested in trying to encourage development in the central part of the City and discourage development out on the fringes. However, they did not want to define the core as being the downtown area. A number of Committee members felt that it is the Monterey Road corridor that is the central part of the community and that the City should be encouraging development along the corridor both north and south of the downtown. The boundary identified is one that the Committee believes should be incorporated into the initiative. The Planning Commission was very mixed on this proposed amendment. Some Commissioners did not believe that the core should be defined in the initiative. Others felt that the existing definition was acceptable while others felt that the definition might be acceptable but that the Council should have the opportunity to reevaluate/change the definition of the core area every five years, if circumstances warrant it.

Council Member Sellers stated that he would support a definition that combines the recommendation as he was comfortable with defining the core area. However, he did not know if the Council should wait five years to define the core. By defining the core, the City would create a precedent and maintain the same impact. If the amendment states that the core area is defined as what is known today as the core area, he was comfortable in stating this and felt that the core area could be defined annually, if warranted. By establishing a core area, the City would create a precedent that would make incremental changes and not wholesale changes. He expressed concern that the core area definition has gotten distorted over the years.

Mr. Bischoff said that one of the concerns of the Committee is the way the core area has been defined and used in the past 10 years that includes the southern boundary of Tennant Avenue with the northern boundary being the southern boundary of the Morgan Hill Business Park that extends from Highway 101 up to the foothill. He indicated that this is a large core area and that any project within this defined core receives the same number of points. The Committee felt that there should be a smaller core area and give more credit to individuals who develop close to the downtown, transit and shopping.

Council Member Carr felt that there were several individuals who were only comfortable eliminating the east/west split as long as the core area was tightened up and that the core area be defined within the initiative and not allow it to be so flexible and changed every year, depending on what the Council felt like doing. There was also concern by others that there has to be a need for planning. When the core changes, you may win or lose a lot of points. If a developer was half way through building a project and the core changes, a developer may have a 10-year window period to build out a project versus a 3-year window period.

Mayor Kennedy inquired how the core is used under Measure P.

Mr. Bischoff responded that projects are given points according to their proximity to the core area under the orderly and contiguous category. He indicated that the scoring of the projects is contained within the ordinance and can be changed by the Council when it so chooses.

Council Member Sellers stated that the core area was so broadly defined that a project located at the edge of town would still receive points as being adjacent to the core area.

Council Member Tate felt that the proposed amendment affords the Council flexibility to increase the core area without changing the core area.

Council Member Carr indicated that the Committee talked about a lot of different shapes and scenarios, including defining the points to be awarded. The Committee recommends this amendment because it continues a lot of the emphasis on the downtown and addresses the housing opportunities along the Monterey corridor. He felt that it was important to significantly tighten up the core area and eliminate some of the sprawl that has taken place.

Mayor Kennedy supported the recommendation of the Committee. He said that it would be helpful to have the Residential Development Control System portion of the ordinance so that he can read the proposed amendments in their respective context.

City Attorney Leichter informed the Council that Chris Taylor, outside Council, is helping the City with the draft measure and has prepared a redline version of the proposed amendments.

Council Member Sellers felt that it made sense to define the core area. He noted that it was stated earlier that Measure P was a testimony to the public's distrust of the Council. He said that the irony of this is that Measure P has become so strong, in and of itself, that the Council is set in stone. He

said that Council Member have not wanted to make any changes to Measure P in the past 10 years or so. By defining the core area, he was confident that it would remain as the small area throughout the life of the measure.

Action: *By consensus, the City Council (Mayor Pro Tempore Chang absent) **Reviewed** the Proposed Amendments; and **Provided** the above Comments to Measure P Committee by Minute Action.*

16. IDENTIFY DATES TO CONDUCT IDENTIFIED WORKSHOP TOPICS AND INTERVIEW VARIOUS BOARDS AND COMMISSIONS

Council Services and Records Manager Torrez presented the staff report. She indicated that Ms. Flynn requested that the Council consider holding a follow up meeting with the County on April 16, 17 or 18.

Council Member Tate indicated that he has a conflict in meeting on the second Wednesdays of the month, noting that he will out of country May 14 through June 15.

Council Member Sellers supported conducting interviews on April 23 at 5 p.m. He noted that the League of California Cities' Sacramento trip is scheduled for May 14 and 15. He stated that he would like to take this trip. He noted that the budget session will take a while. He recommended that the budget process take place on a Friday.

City Manager Tewes informed the Council that staff is proposing to present the City Manager's recommended budget on May 14. He indicated that the Municipal Code requires that he provide the Council a recommended budget 45-days prior to the end of the fiscal year. Typically, staff likes to hand out the budget to the Council at a meeting and make a presentation. He indicated that he can meet this obligation by making the budget available to the Council and that it does not have to be presented at a meeting. He felt that the Council will want to meet to hear the budget presentation shortly after receiving it and set its decision making schedule in terms of public workshops and public hearings.

Mayor Kennedy recommended that the budget be presented Wednesday, May 28 at 6:00 p.m. with no other items being placed on the agenda.

City Manager Tewes indicated that in the past, there has been three milestones in the budget process: 1) a meeting to which staff presents the City Manager's recommended budget; 2) Council schedules a workshop, sometimes holding two workshops to discuss the operating and capital budgets; and 3) schedule a public hearing before adopting the budget. It is staff's hope that these can be accomplished by June 18, 2003.

Council Member Sellers supported holding a May 28 budget workshop. If more time is needed, the Council can schedule further meetings on June 6 or the week of June 9, holding the public hearing on June 18, 2003.

Mayor Kennedy recommended that the Council conduct a budget workshop on May 28, hold a follow up meeting on June 11 and conduct the public hearing on June 18.

Council Member Sellers supported a follow up meeting on Friday, June 13 at 9:30 a.m.

Mayor Kennedy recommended that the Council conduct a budget work session on Friday, May 16.

Council Member Carr indicated that he would be out of town on May 16 but that he is available on May 23, 8 a.m. He expressed concern that the Council is not dedicating enough time to review a difficult budget. He recommended that the Council reserve the time to adequately review the budget. He recommended that Fridays, June 6 and June 13, be made available as back up meeting dates.

City Manager Tewes agreed that this would be a difficult budget and that staff would be recommending some reductions in the budget. These will pose policy questions that the Council may wish to consider. He felt that the Council needs time to allow staff to present the budget to it; time to develop questions, concerns and comments; and request the additional analysis that it would like. Staff would need to present the analysis at a subsequent meeting. He did not believe that one, four hour workshop would be adequate to review the budget this year.

Council Member Carr said that the City Manager described the process that should be undertaken to review the budget. He would like to have whatever amount of time staff felt necessary to go through the budget and present the assumptions they used based on the comments given by the Council. The Council then needs time to take this information and digest the information, returning in a budget session with questions and comments. He felt that the Council needs two, four hour budget sessions.

City Manager Tewes indicated that the Council requested that staff schedule discussion about the operations and system design of the City's domestic water system as soon as possible. Also, a couple of Council Members felt that it would be useful to have a physical tour of city wells, reservations and pumping stations. He recommended that the Council identify when the Council would like to schedule this discussion/tour.

Council Member Sellers recommended that an informal tour be scheduled. He further recommended that workshop items be scheduled in July and August, noting that the Council has a lot of items to review and consider in the next two months, including the budget. He noted that a water system tour would take at least half a day.

Mayor Kennedy recommended that staff make a short presentation on the City's domestic water system at a Council meeting on April 23, 2003.

Council Member Sellers concurred with scheduling the City's domestic water system on the April 23 agenda and that should the meeting get late, it could be continued to April 30. He inquired whether it would be appropriate to stay overnight for the annual League of California Cities trip to Sacramento on May 14 and 15. He requested that City Clerk staff assist with scheduling this trip.

City Manager Tewes indicated that Council Member Carr suggested that following the discussion of the Parks & Recreation Commission recommendations regarding the outdoor sports complex, the Council still needs to address the allocation issue of the \$147 million at a subsequent workshop.

Mayor Kennedy inquired whether it would be appropriate to review the allocations in the context of one of the budget workshops.

Council Member Carr felt that the Redevelopment Agency allocation is a separate issue from the budget. He said that when he raised the allocation issue, he was not comfortable with the recommendation of the Parks and Recreation Commission and the direction that the Council was going. He felt that the Council needs to go into details about the general categories because he was convinced that the \$147 million cap would not cover all of the general categories. He felt that the Council/Redevelopment Agency has two options: 1) start talking about extending this cap; or 2) start talking about limiting these projects. He noted that the Council/Agency has not had this discussion yet. He felt that this is an issue that is as urgent as the Council wishes to move forward with the action it took at the last meeting to adopt the Parks and Recreation Commission recommendations (e.g., raising impact fees to cover different areas where dollars were moved out of Redevelopment Agency projects). If the Council is not driving forward with any projects other than the aquatics center, the timing is not as urgent. He felt that it would be important for all five council members to be in attendance at this discussion setting.

Council Member Tate stated his support of discussing these two options.

Mayor Kennedy requested that staff return with the discussion of scheduling the Redevelopment Agency priority session and any other items that might be time sensitive at the April 16 meeting.

Action: *It was the consensus of the City Council as follows (Mayor Pro Tempore Chang absent):*

- *Friday, April 18, 1:00 p.m. – meeting with County Staff/Design Team for the Courthouse project (now scheduled for Wednesday, April 23 from 4-5 p.m.)*
- *Wednesday, April 23, 5-7 p.m. – Library and Parks & Recreation Commission interviews*
- *Wednesday, April 23 as part of the RDA/City Council meeting – Staff presentation on the operations and system design of the City's domestic water system; continued to April 30 special meeting, if necessary*
- *Wednesday, April 30, 6 p.m. – Housing Strategy workshop*
- *Fiscal Year 2003-04 Budget Meeting Dates: Friday, May 23 from 8 a.m.-12 p.m.; Wednesday, June 11 @ 6 p.m.; Friday, June 13 @ 9:30 a.m. (if necessary); and Wednesday, June 18 @ 7:30 p.m. (public hearing)*

Action : *On a motion by Council/Agency Member Sellers and seconded by Mayor/Chairperson Kennedy, the City Council/Redevelopment Agency, on a 4-0 vote with Mayor Pro Tempore/Vice-chair Chang absent, **Extended** the meeting beyond the 11:00 p.m. meeting curfew for 30 minutes.*

ADJOURN TO CLOSED SESSION

Mayor/Chairperson Kennedy adjourned the meeting to closed session at 11:08 p.m.

RECONVENE

Mayor/Chairperson Kennedy reconvened the meeting at 11:30 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney/Agency Counsel Leichter announced that there was no reportable action taken in closed session.

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

ADJOURNMENT

There being no further business, Mayor/Chairperson Kennedy adjourned the meeting at 11:32 p.m.

MINUTES RECORDED AND PREPARED BY

IRMA TORREZ, City Clerk/Agency Secretary